

# Human Rights of Refugees in Light of Syrian Crisis

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*The migration crisis enveloping Europe and most of the Middle East today has been termed as the worst humanitarian disasters since the world war in the 1940s. Millions of desperate people are on the march: Sunni refugees were driven out by the barbarity of the Assad regime in Syria, Christians and Yazidis fleeing the violence of Islamic State, millions more fleeing poverty and oppression without end. The ongoing operations in Syria have resulted into death of thousands of people and have caused mass displacement of the population, with millions of people internally displaced and millions seeking refugee status in other nations, with all in need of immediate humanitarian assistance. Amid all this, there have been more than a million applications filed seeking asylums primarily in the European States. The above situation makes it important to bring forth the study of the International Humanitarian Law and Refugee Law in the light of the Syrian Crisis. There is a need to understand the existing regulatory framework consisting the convention of 1951 and the Protocol of 1967 and Asylum systems, because of the intense migration pressure and the limited opportunities, asylum systems in Western countries have come under increasing strain through their use as a migration channel. This hence portrays as a big criticism of the Conventions and Protocols which are un-amended. An attempt has been made to put forth the same through this paper where we aim at understanding the status and protection of refugees within the existing framework of International Humanitarian Law and Refugee law in signatory and non-signatory states, the various causes behind the mass migration, including the Rise of Islamic State, the Uprisings against the Regime of Bashar Al Asad and the Russo-American Retaliation to the same, the need to give immediate humanitarian aid to the displaced within and outside the Middle East is also discussed. Though primarily focussing on the Human Rights of refugees we also aim at understanding the regulatory framework of European Countries of the asylum and reception system through which Refugees are pouring into Europe.*

## Introduction

There are approximately 22 million refugees around the globe who are forced to flee their country of origin and out of these 22 million, 75% of refugees are women and children. In light of the same, there exists a need to understand the causes of the existing crisis and so is the need to protect the most vulnerable

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portion of the population. In the past few years we have observed a massive flow of refugees seeking protection in Europe and other nations and their condition makes us ponder upon their status in these nations in addition to the exercise of the fundamental human rights that they have in the light of the existing legal framework, wherein the Refugee Law, the International Humanitarian Law, and the Domestic legal systems play an important role, consequently it becomes important to understand the difference between the Internally Displaced Persons and the Refugees.

### **Refugee Law**

The Law that governs refugees regards them as those people who flee their homes in consequence of any sort of persecution or on happening of a mass exodus majorly due to political, religious and military problems. With the passage of time and happening of massacres, the definition of refugee has varied and has increased the international concern for the plight of refugees. A refugee is defined under Article 1 A (2) of the 1951 United Nations Convention Relating to the Status of Refugees<sup>1</sup> and lays down five grounds regarding the question of persecution which are:-

*Race*- under this category ethnic and social groups which have common descent are included.

*Religion* does not only embrace identification with a group sharing common traditions or beliefs, but also the active practice of religion.

*Nationality* consists of an individual's citizenship status in the respective country.

*A particular social group* including people sharing similar background, habits or social status.

*Political opinions* are those ideas which are not tolerated by the authorities, including critical opinions of government policies. Individuals who often conceal their political opinions only after they have fled their countries qualify for refugee status, moreover, they need to prove that their views are likely to subject them to persecution if they return home.

### **The Existing Framework Governing Refugees**

The existing framework which governs the status of Refugees includes firstly,

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<sup>1</sup> The Refugees are defined as "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or return there because there is a fear of persecution."

the 1951 Convention relating to the Status of Refugees<sup>2</sup> which is the foundation on which International Refugee Law is built.<sup>3</sup> It sets some minimum standards on how the persons who are found to qualify for refugee status will be treated. The Convention was drafted at the time of World War II, but due to new refugee crises emerging in the late 1950s and early 1960s, it had become necessary to widen the temporal as well as the geographical scope of the Refugee Convention.<sup>4</sup> Thus, to effectuate the same, a Protocol to the Convention was drafted and adopted, which covered majorly three main aspects, of the definition of refugee, their rights and obligations and finally the states' obligations which include supervision of the Convention's application.<sup>5</sup> In addition to that, the United Nations High Commissioner for Refugees assists in the protection of refugees, with its primary objective to ensure that all persons are able to exercise their right to seek asylum and henceforth finding safe refuge in another state. As many of the world's recent major refugee flows have been faced in less developed countries, UNHCR has now acquired the supplementary role of coordination of material assistance for refugees as well as returnees.<sup>6</sup>

### **Difference between Internally Displaced People and Refugees**

Internally displaced persons are therefore a part of the world's most vulnerable population, this is because unlike refugees, IDPs are not crossing international borders to find asylum but have been remaining inside their particular home countries. It is important to point out that IDPs legally remain under the protection of their own state government, despite the fact that the main reason for the plight is that government. UNHCR's mandate does not bring IDPs under its purview, but it has since years been protecting and assisting the displaced people to seek asylum along with controlling the protection and shelter needs of IDPs as well as running various camps for them.

Casting the main difference between IDPs and refugees is that apart from the fact that the internally displaced remain within the borders of their own country, they do not have a legal status of their own, as IDP is not considered one as

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<sup>2</sup> *Convention Relating to the Status of Refugees*, 189 UNTS 137, adopted on 14 December 1950.

<sup>3</sup> See Office of the United Nations High Commissioner for Refugees (UNHCR), *Collection of International Instruments and other Legal Texts Concerning Refugees and Displaced Persons*, 1995, *UNHCR Official Website* available at <https://www.unhcr.org/publications/legal/455c460b2/collection-international-instruments-legal-texts-concerning-refugees-others.html>, accessed on 2 January 2016.

<sup>4</sup> UNHCR, *The State of the World's Refugees: 50 Years of Humanitarian Action*, Oxford University Press, Oxford, 2000.

<sup>5</sup> *Ibid.*

<sup>6</sup> Inter-Parliamentary Union and International Committee of the Red Cross, *Respect for International Humanitarian Law*, Handbook for Parliamentarians No. 1, 1999.

they are still under the jurisdiction of their own government, whereas Refugee status entitles individuals to certain rights and international protection. On the other hand, both IDPs, as well as Refugees, also share some similarities as both of these communities often feel like strangers in their place of refuge, where most of the local population may be from one kind of ethnic and/or religious group and/or may speak another language. Consequentially, IDPs may not even feel welcomed, despite the fact that they share the same citizenship as the host population.<sup>7</sup>

### **Rights of Refugees**

The 1951 Convention is the most comprehensive codification of Refugee Rights, as it imbibes in itself the evolving aspects also as it was felt necessary that the convention be applied to new refugees also.<sup>8</sup> The whole scheme of various articles of the convention provides for a wide set of rights for refugees. Article 3 propounds the right of non-discrimination. Furthermore, Article 16 provides for the right of refugees to be brought at par with the domestic citizens in terms of the right to employment, right to go to courts, right to relief etc. The most fundamental Human Right is the Right to Education which is a part of other rights guaranteed to the refugees. In addition to that Article 33(1) of the Convention provides for non-imposition of penalty on refugees for their illegal presence. The ICCPR also provides certain level of protection to the aliens residing in other states and makes it obligatory for the State in whose territory that particular alien resides must be given such quantum of protection which is sufficient to meet the minimum international standards prescribed by International Law, and must be given the right to equal treatment before the law<sup>9</sup> when stood among his/her own nationals so far as far as the safety of person and property is concerned. The right to afford a family is also endorsed by ICCPR.<sup>10</sup> The Universal Declaration of Human Rights also provides for numerous rights not only for refugees but focuses on the entire human race by providing the right to equality and the right against discrimination,<sup>11</sup> the right of an individual to judicial remedy,<sup>12</sup> the right to life and liberty<sup>13</sup> and the like.

<sup>7</sup> Barutciski, Michael, 'Tensions between the refugee concept and the IDP debate', vol. 3, *Forced Migration Review*, 1998.

<sup>8</sup> S. P. Singh, 'Human Rights of Refugees in India: Legal Perspectives', vol. IV, *CPJ Law Journal*, 2014.

<sup>9</sup> *International Covenant on Civil and Political Rights*, (ICCPR) 999 UNTS 171, adopted on 16 December 1966, arts 14 and 20

<sup>10</sup> Ibid art 23(1). (The family is seen as the natural and fundamental group unit of society and is entitled to protection by society and the State.)

<sup>11</sup> *Universal Declaration of Human Rights*, (UDHR) 217 A (III), adopted on 10 December 1948, arts 1 and 2.

<sup>12</sup> Ibid art 10.

<sup>13</sup> Ibid art 3.

## Non-Refoulement

The obligation of States which does not allow them to return a refugee back to those frontiers where his life and freedom would face a threat on account of his race, religion, nationality, membership of a particular social group or political opinion<sup>14</sup> is known as the principle of non-refoulement. This principle in legal parlance is referred as the cornerstone of Refugee Law just for the reason that it provides for immediate relief to the anguished masses who flee their own land just in pursuit of a safer as well as a dignified life. There are certain restrictions under this principle- primarily, persons who have otherwise qualified as refugees cannot claim protection under this principle in those cases where there exists some reasonable ground for considering the refugee as a danger to the host country's national security whereas in other cases the refugee has been convicted of a serious crime henceforth forming a danger to the host country.<sup>15</sup>

## Freedom of Movement

With all other rights comes the right to Freedom of movement as a key right for refugees within their host country.<sup>16</sup> Article 26 of the Convention provides that States are obliged to provide the refugees right to choose their place wherever they want to reside within the territory and so can move freely within the State. Meanwhile, Article 28 provides for the issuance of certain travel documents by the State to the refugees which act as a permit for them traveling outside the State. Freedom of movement is particularly an important issue with regard to prolonged refugee situations in countries having meager national resources as well as limited legal frameworks for the protection of refugees who host outsized refugee populations.<sup>17</sup>

## Right to Liberty and Security of the Person

The right to liberty and security of the person is significant in the pretense of how asylum seekers are treated within the country of refuge. It is the domestic law of that particular country which provides for the detention of asylum seekers anytime during the adjudication of their claims. Therefore, the detention of asylum seekers forms a controversial issue because of the conditions found in the detention facilities of several countries. The best instance to quote here is Greece issue which got inundated by asylum-seekers; nonetheless many considered it, a

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<sup>14</sup> *Convention relating to the Status of Refugees* (n 2) art 33(1).

<sup>15</sup> *Ibid* art 33(2).

<sup>16</sup> ICCPR (n 9) art 12.

<sup>17</sup> *R (ZL) v. Secretary of State for the Home Department* [2003] 1 WLR 1230.

port of entry to access other European nations.<sup>18</sup>

### **Difference between a Signatory and a Non- Signatory States vis-à-vis the Convention and Protocol**

It has been commonly witnessed that there has been an increasing difficulty in reconciling the humanitarian impulses and obligations with their domestic requirements and political realities often resulting in discouraging the States not to sign the 1951 Convention. Thus, a Non- Signatory State means a State, irrespective of its esteem for refugee law, has neither ratified the Convention nor the 1967 Protocol. Though the Non-Signatory States are neither obliged to protect nor ensure the rights of the refugees, however, there exists an indirect legal obligation on behalf of those States to respect those rights, with one condition that they are also parties to other Human Rights Conventions.

### **Identifying States' Responsibilities towards Refugees and Asylum Seekers**

The most significant question dealt hereby is that what duties states owe to refugees and asylum- seekers under International law? One and only answer to this is that despite the 1951 Refugee Convention's remarkable contribution to defining states' responsibilities towards refugees, there still remain some important gaps in the protection regime.<sup>19</sup>

State responsibilities to admit refugees and process asylum requests and the lack of a corresponding state duty to grant asylum.

Not mention about the 'right to seek asylum' in the 1951 Refugee Convention.

The 1951 Refugee Convention does not make any mention of a duty to grant asylum.

There has already been much debate over the exact scope of the principle of non-refoulement. It is evident that the prohibition of refoulement is applicable to all refugees who are already on the territory. Whether it is also applicable to refugees who arrive at the border and seek admission into the territory is still an undecided agenda. International law does not contain any obligation to grant asylum and hence, states should consider not rejecting refugees at the frontier which would further amount to refoulement.

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<sup>18</sup> UNHCR, 'Reception Standards for Asylum Seekers in the European Union, UNHCR Official Website available at [www.unhcr.org/43662ddb2.pdf](http://www.unhcr.org/43662ddb2.pdf), accessed on 8 January 2016.

<sup>19</sup> R. Sexton, 'Political refugees, non-refoulement and State Practice: A Comparative Study', vol. 18, *Vanderbilt Journal of Transnational Law* p. 731, 1985, pp.737-738.

## The Syrian Crisis: An Analysis

Widely termed as the world's biggest humanitarian crisis since the Second World War the Syrian crisis has put forward many questions, questions with regard to the nature of the conflict, the causes that led to widespread destruction and enormous human rights violations, the safety of refugees and the necessity of immediate humanitarian aid as around 13.5 million people inside Syria are in immediate need of humanitarian assistance.<sup>20</sup> Starting as an anti-government protest the Syrian crisis has changed many colors and the conflict still rages on, with more than two hundred thousand Syrians having to lost their lives.<sup>21</sup>

### Cause of Conflict in Syria Leading to Mass Migration

The Syrian conflict has many origins, which include a long-standing political issue, religious issues, ideological disputes as well as economic dislocations from both global and regional factors; and worsening environmental conditions.<sup>22</sup> The causes are numerous, starting as a movement against the autocratic and corrupt rule of Bashar Al Asad, fuelled by sectarian violence it grew into a civil war against the minority Shia government by a majority Sunni population. The civil war took another turn with the entrance of the Islamic State into the picture, and finally the involvement of other states like Saudi Arabia, the United States of America, and Russia etc. Another important factor that led to the crisis, as well as the mass exodus, was the continuous draughts that had been occurring over the years.<sup>23</sup>

### Pro-Democracy Movement or Sectarianism

The Arab Spring started off a chain reaction of movements against regimes across the whole of the Middle East and North Africa; same was the case with Syria, as pro-democracy movements gained mass support, after the arrest and torture of some teenagers.<sup>24</sup> This movement was a result of decade's old political repression, which turned out to become one of the most longstanding civil wars

<sup>20</sup> European Commission, 'Humanitarian Aid and Civil Protection', ECHO Factsheet available at [https://ec.europa.eu/echo/where/europe/ukraine\\_en](https://ec.europa.eu/echo/where/europe/ukraine_en), accessed on 10 January 2016.

<sup>21</sup> BBC, 'Syria: The Story of the Conflict', BBC (11 March 2016) available at <http://www.bbc.com/news/world-middle-east-26116868>, accessed on 24 January 2016.

<sup>22</sup> Peter H. Gleick, 'Water, Drought, Climate Change, and Conflict in Syria', Pacific Institute, Oakland, California, 2014 available at <https://journals.ametsoc.org/doi/full/10.1175/WCAS-D-13-00059.1>, accessed on 24 January 2016.

<sup>23</sup> Shahrzad Mohtadi, 'Climate change and the Syrian uprising', Bulletin of the Atomic Scientists (16 August 2012) available at [thebulletin.org/web-edition/features/climate-change-and-the-syrian-uprising](http://thebulletin.org/web-edition/features/climate-change-and-the-syrian-uprising), accessed on 8 January 2016.

<sup>24</sup> BBC (n 21).

in modern history, as rebels fought to take control of Syria and the anti-Asad forces fought a bitter war with the Army and the Pro-Assad population, causing death and destruction.

Syria consists of a population of 65% Sunnis, with a 12% minority of Alwalite Shia sect, of which the ruling family belongs.<sup>25</sup> This civil war initially did not show signs of being sectarian as the movement was directed against corruption, oppression and economic mismanagement amid slogans of “No Sunni, No Alawi, No Kurd, No Arab, we all want freedom.”<sup>26</sup> Gradually the government started bombing Sunni Muslims and suppressing brutally any anti-government activity and the rebels doing the opposite and attacking Shia neighborhoods.

During the war the population suffered the most as both sides fought on roads, using artillery and missiles, while as the Assad regime retaliated with fighter jets and missiles by bombarding the liberated areas in order to recapture them.<sup>27</sup> The High Commissioner for Human Rights to the Security Council issued a statement in February 2013 stating that around 70,000 people have died during the war.<sup>28</sup>

### The Proxy War

The Syrian civil war was fuelled by international vested interests, due to their respective strategic interests, external actors continued to stoke up the conflict in Syria.<sup>29</sup> Iran, a Shia state gave support to the Asad Government by providing weapons and military advisors.<sup>30</sup> Russia and China continued to reinforce the Assad regime either economically or militarily and block its condemnation as well as global sanctions by their veto in the Security Council, while as at the same time the UK, the USA and Saudi Arabia with the idea to strengthen the

<sup>25</sup> Frederic C. Hoff and Alex Simon, *Sectarian Violence in Syria's Civil War: Causes, Consequences, and Recommendations for Mitigation*, The Center for the Prevention of Genocide, United States Holocaust Memorial Museum available at <https://www.ushmm.org/m/pdfs/20130325-syria-report.pdf>, accessed on 26 January 2016.

<sup>26</sup> International Crisis Group, Popular Protest in North Africa and the Middle East(VI): The Syrian People's Slow-motion Revolution, 6 July 2011, *International Crisis Group Official Website* available at <https://www.crisisgroup.org/middle-east-north-africa/eastern-mediterranean/syria/popular-protest-north-africa-and-middle-east-vi-syrian-people-s-slow-motion-revolution>, accessed on 26 January 2016.

<sup>27</sup> Muriel Asseburg and Heiko Wimmen, 'The Civil War in Syria and the Impotence of International Politics', in Marc v. Boemcken et al(eds), *Peace Report 2013*, LIT-Verlag, pp. 70-83.

<sup>28</sup> Office of High Commissioner of Human Rights (OHCHR), available at [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12990&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12990&LangID=E), accessed on 8 January 2016.

<sup>29</sup> Muriel Asseburg and Heiko Wimmen, 'Syrien im Bürgerkrieg', vol. 68, SWP-Aktuell, Berlin, 2012.

<sup>30</sup> BBC (n 21).



opposition to the Asad Regime, supported the rebellion primarily to reduce the influence of Iran in the area and establish a Sunni government.<sup>31</sup> The United States Defence Secretary Ashton Carter said that the United States and Russia have a “fundamental strategic disagreement” about Russia’s support for Asad, and he rejected the possibility of counterterrorism cooperation while Russian attacks on certain anti-Asad forces continue.<sup>32</sup> The Sunni-dominated opposition has, meanwhile, attracted varying degrees of support from its main backers - Turkey, Saudi Arabia, Qatar, and other Arab states along with the US, UK, and France. However, the rise of hardline Islamist rebels and the arrival of jihadists from across the world have led to a marked cooling of Western backing.<sup>33</sup>

### **The Role of the Islamic State**

Cole Bunzel, points out that the air of mystery about the Islamic State derives from the lack of attention prior to 2013, as the conventional wisdom both in the middle east and west held that the Al-Qaeda in Iraq had changed their name to the Islamic State, and the ambitions of this self-proclaimed state remained unnoticed, as it signaled the start of an ambitious political project to bring about a caliphate in the rest of the world.<sup>34</sup> The Islamic state capitalized on the growing resentment against the Shia regimes, it had expanded its hold in Iraq and had captured massive territories in Syria, in 2011 the self-proclaimed caliph Baghdadi sent a contingent of fighters to Syria, Jabhat al-Nusra grew to become a leading Sunni rebel militant organization in the Syrian Civil War, as the Islamic State announced its expansion to Syria in the year 2013, when the Sunni insurgency was losing momentum. The Islamic State launched attacks in central and northern areas of the country against both pro-Asad and anti-Asad forces, while as the gains have come largely at the expense of pro-Asad forces<sup>35</sup>

### **The Drought Conditions**

An important factor that led to the crisis, as well as the mass exodus of the Syrian population, was the environmental condition prevalent in Syria, as draughts that had been reoccurring over the past century, there were six significant draughts

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<sup>31</sup> Muriel Asseburg and Heiko Wimmen (n 27).

<sup>32</sup> Christopher M. Blanchard et al, ‘Armed Conflict in Syria: Overview and U.S. Response’, Congressional Research Service, October 2015.

<sup>33</sup> BBC (n 21).

<sup>34</sup> Cole Bunzel, *From Paper State to Caliphate: The Ideology of the Islamic State*, ‘The Brookings Project on US Relations with the Islamic World’, Analysis Paper, Centre for Middle East Policy at Brookings, March 2015.

<sup>35</sup> Congressional Research Service Report, Armed Conflict in Syria: Overview and U.S. Response by Christopher M. Blanchard and others (October 2015).

because the precipitation had dropped to one-third the normal level.<sup>36</sup>

Between 2006 and 2009, around 1.3 million inhabitants of eastern Syria were affected by agricultural failures. An estimated 800,000 people lost their livelihoods and basic food support.<sup>37</sup> The United Nations has estimated that between two million and three million people have been affected, with a million driven into food insecurity. These conditions were further worsened by water management decisions and poor planning,<sup>38</sup> as there was extensive exploitation of the groundwater which further contributed to the problem.<sup>39</sup> It is these conditions created by official apathy and faulty decisions which contributed both to the civil war as well as the forced migration of millions of people from Syria.

As such it is clear from the various causes that led to the civil war, that it was not merely an opposition to the rule of Bashar Al Asad, but was a conglomerate of many things which had built up over the years, which unfortunately included the sectarianism.

### **The Extensive Forced Migration**

The Conflict in Syria has caused massive damage to life and property with millions of people dying and millions rendered homeless, it certainly is an enormous humanitarian crisis. People are being driven out by the violence prevalent, by the fighting or the fear of persecution. In light of the same, the population has been forced to abandon their possessions and their loved ones.<sup>40</sup> The war in Syria has caused more than 2.7 million Syrians to leave their country since 2011, and the number may have doubled by 2014.<sup>41</sup> The war in Syria has claimed over 200,000 lives, including over 8,000 documented killings of children under eighteen years of age.<sup>42</sup> With a population of around 22 million people, the prolonged conflict has resulted in 7.6 million internally displaced persons and an additional 3.2 million refugees, as well as approximately 12.2 million people in need of

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<sup>36</sup> Shahrzad Mohtadi (n 23).

<sup>37</sup> M. Solh, 'Tackling the drought in Syria', available at <https://www.natureasia.com/en/nmiddleeast/article/10.1038/nmiddleeast.2010.206>, accessed on 8 January 2016.

<sup>38</sup> Peter H. Gleick (n 22).

<sup>39</sup> M. Salman and W. Mualla, 2003, 'The utilization of water resources for agriculture in Syria: Analysis of current situation and future challenges', Proc. Int. Seminar on Water Issues of the World Federation of Scientists, Erice, Sicily, Italy, IPTRID, p. 11.

<sup>40</sup> Franfois Bugnion, 'Refugees, Internally Displaced Persons, and International Humanitarian Law', vol. 28, no. 5, Fordham International Law Journal, 2004, art 4.

<sup>41</sup> Nations High Commissioner for Refugees, 2014 Syria Regional Response Plan, 13 December 2013.

<sup>42</sup> Megan Price et al, *Updated Statistical Analysis of Documentation of Killings in the Syrian Arab Republic*, UNOHCHR, August 2014 available at [www.ohchr.org/documents/countries/sy/hrdagupdatedreportaug2014.pdf](http://www.ohchr.org/documents/countries/sy/hrdagupdatedreportaug2014.pdf), accessed on 4 January 2015.

immediate humanitarian aid so as to survive.<sup>43</sup> Ruthless killing of civilians, unending fighting, massive human rights violations and unliveable conditions contributed to the mass exodus of the Syrian Population.

The people fleeing Syria have found many host countries receiving them with open arms. People have opted countries like Lebanon, Turkey, Jordan etc. who have been fairly generous in giving space to these refugees. Most of the European Countries are also seeing a colossal flow of refugees; Europe has recorded an unprecedented number of asylum seekers and refugees with around a million asylum applications being filed.<sup>44</sup>

At the same time, the condition of these refugees is very deplorable with at least 23,000 people have been estimated to have lost their lives trying to reach a safer country in Europe.<sup>45</sup> Amid a crisis which does not seem to be subsidizing the situation may turn worse, as almost a million Syrians have registered as refugees with the United Nations High Commissioner for Refugees in the year 2014.<sup>46</sup> The worsening condition in Syria has forced people to leave war-torn areas and move to safer locations.

Though most of the host countries have been liberal in accepting the refugees but at the same time, the huge inflow has caused increased stress on their resources. These host countries like Jordan, Lebanon, and Egypt have already been hosting refugees from Palestine and Iraq, and the present Syrian Crisis has only added strain, as data suggested that around 3300 refugees reached these host countries daily in the year 2014 which has had its social, cultural, economic and developmental impact.<sup>47</sup> The RSC Report points out that Europe has absorbed a very small portion of the displaced people and goes on to note that by July 2014, there were approximately 123,600 refugees from Syria in Europe, representing approximately 4% of the total Syrian refugee flow.<sup>48</sup>

The massive stress that has been created upon the hosting countries has a direct

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<sup>43</sup> United Nations Office for the Coordination of Humanitarian Affairs, 'Syrian Arab Republic', *United Nations Office for the Coordination of Humanitarian Affairs Official Website* available at [www.unocha.org/syria](http://www.unocha.org/syria), accessed on 4 January 2016.

<sup>44</sup> OECD, 'Migration', *OECD Official Website* available at [www.oecd.org/migration](http://www.oecd.org/migration), accessed on 4 January 2016.

<sup>45</sup> 'The Migrants Files', available at <http://www.detective.io/detective/the-migrants-files>, accessed on 4 January 2015.

<sup>46</sup> Operational Portal Refugee Situations, 'Syria Regional Refugee Response', available at [data.unhcr.org/syrianrefugees/regional.php](http://data.unhcr.org/syrianrefugees/regional.php), accessed on 4 January 2016.

<sup>47</sup> Roger Zetter and Héloïse Ruauudel, 'Development and Protection Challenges of the Syrian Refugee Crisis', no. 47, *Forced Migration Review* p.6, September 2014.

<sup>48</sup> UNHCR, 'Syrian Refugees in Europe: What Europe can do to Ensure Protection and Solidarity', *UNHCR Official Website* available at <https://www.unhcr.org/tr/en/12819-unhcr-report-syrian-refugees-in-europe-what-europe-can-do-to-ensure-protection-and-solidarity.html>, accessed on 8 January 2016.

bearing upon the condition of the refugees in these host countries as most of them live in desperate conditions, while the host countries battle to meet their needs. Even pre-Syrian Influx the condition in these host countries wasn't very good as unemployment rates in Egypt and Lebanon are increasing, while as at the same time the water crisis in Jordan remains as there is insufficient potable water even for its own people. In addition to that, the political uncertainties some of the host countries has added to the woes.<sup>49</sup>

### Regulatory Frame Work In host Countries

The geographical position of Syria makes it amply clear why Turkey has been the most favored destination for the refugees. Turkey is currently hosting as many as 1.9 million Syrians as well as a large number of people from Iraq. Turkey, in particular, has responded effectively to the crisis, while the conditions of refugees there are far from being ideal they still receive free healthcare, and children receive free education,<sup>50</sup> which in fact is a very fundamental requirement catering to the basic ideas of human rights of refugees. Turkey has provided camp based services to the refugees in addition to the basic humanitarian assistance which has put a significant burden, economically as well as socially upon the state, as by early 2015 the cost has risen to more than \$5 Billion,<sup>51</sup> and the conflict between the citizen and the refugee has slowly started to erupt. To understand the whole refugee crisis and the rights provided to the refugees it is important to understand the reception system of the host countries. The 1994 regulation of Turkey is the first detailed regulatory framework regarding asylum seekers and refugees in Turkey, but was replaced by the 2014 Law on Foreigners and International Protection, which has codified the law on Refugee Protection imbibing the limitation of the 1951 Convention, under which it recognized only refugees from Europe and refugees are granted temporary protection until the status is evaluated by UNHCR.<sup>52</sup>

In Europe, the starting point of Asylum has been the 1951 convention and the Qualification Directive<sup>53</sup> imbibing the principle that refugees must not be returned

<sup>49</sup> Sarah Bidinger et al, Boston University Law Students, 'Protecting Syrian Refugees: Laws, Policies and Global Responsibility Sharing', available at [www.bu.edu/law/central/jd/programs/clinics/international-human-rights/](http://www.bu.edu/law/central/jd/programs/clinics/international-human-rights/), accessed on 8 January 2016.

<sup>50</sup> Eleni Frantziou and others, 'Refugee Protection, Migration and Human Rights in Europe', *UCL Policy Briefing*, May 2014.

<sup>51</sup> M. Murat Erdogan and Turkiyedeki Suriyeliler, *Toplumsal Kabul ve Uyum, Istanbul Bilgi universitesi Yayinalri*, Istanbul, 2015, p. 4: Also See Sarah Bidinger et al (n 49).

<sup>52</sup> Ahmet Icduygu, 'Syrian Refugees in Turkey: The Long Road Ahead', Transatlantic Council on Migration, Migration Policy Institute, 2015.

<sup>53</sup> European Parliament, Directive 2011/95/EU, adopted on 13 December 2011.

to a country where they have a reason to fear persecution.<sup>54</sup> Under the Law of the European Union, Article 78 of the Treaty on Functioning of the European Union (TFEU) stipulates that the Union must provide a policy for asylum, subsidiary protection, and temporary protection, “ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the 1951 Convention and the 1967 protocol and other relevant treaties”, which include the European Convention on Human Rights (ECHR), the United Nations Convention on the Rights of the Child (UNCRC), the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), in addition to ICCPR, ICESCR<sup>55</sup> They are also provided the right stay in a European Union State until a decision is made on their application as provided under the Article 9 of the Asylum Procedures Directive, which also provides provision for quick decision upon applications filed for asylum and a limit of six months is set<sup>56</sup>

The European Court of Human Rights has also played its role in enunciating the need of protecting refugees, as it has focused on foreseeable consequences of removing a refuge seeker. It aims at taking into consideration of various factors that cause a citizen to seek asylum including the personal circumstances as well as the general conditions in a country, such as a situation of violence or armed conflict or human rights abuses, as the European Court of Human Rights in the case of *Sufi and Elmi v. The United Kingdom*<sup>57</sup> held that the indiscriminate violence in Mogadishu in Somalia was of a sufficient level and intensity to pose a real risk to the life or person of any civilian there. Collective expulsions are also prohibited under the European Union Law which has also been upheld the court as in *Conkav. Belgium*<sup>58</sup> the Court found that the removal of a group of Roma asylum seekers violated Article 4 of Protocol No. 4 to the ECHR. The Court was not satisfied that individual consideration had been taken for the personal circumstances of each member of the expelled group.

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<sup>54</sup> Under international human rights law, the meaning of the non-refoulement principle extends beyond Art. 33 (1) of the 1951 Geneva Convention, as non-refoulement duties also derive from Art. 3 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as from general international law. See UNHCR, Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 2007; See European Union Agency for Fundamental Rights, *Handbook on European Law Relating to Asylum, Borders and Immigration*, Publications Office of the European Union, Luxembourg, 2014, p. 64.

<sup>55</sup> Ibid.

<sup>56</sup> European Union Agency for Fundamental Rights, *Handbook on European Law Relating to Asylum, Borders and Immigration*, Publications Office of the European Union, Luxembourg, 2014, p. 64.

<sup>57</sup> *Sufi and Elmi v. The United Kingdom*, Application Nos. 8319/07 and 11449/07, ECtHR, paras. 250 & 293.

<sup>58</sup> *Conka v. Belgium*, Application No. 51564/99, ECtHR, 5 February 2002.

## Conclusion

The recent refugee crisis has portrayed one of the most devastating disasters that the world has seen which at present do not seem to be nearing an end. The crisis has brought into light various lacunas in the legal framework that governs the Status and rights of refugees throughout the world, as the host countries battle policy as well as legal hurdles to allow the refugees, but nothing as such provides for support to these host countries which face financial, as well as social problems owing to the colossal inflow of refugees.

The 1951 Convention was crafted for a different era and does not confer any right on the refugees of assistance until they finally come into a settlement with a signatory country, Nonetheless there still persists an inequity of outcomes between the refugees of “camp” and “convention” therefore prioritizing those present on the basis of mobility instead of those who are needy. In addition to that, an effective enforcement mechanism is a must, which would check the enforcement of refugee rights like the right to not be discriminated against, and the right to immediate humanitarian aid, which would include housing and health services. Since a refugee crisis is not expected to end in a short span of time it becomes immensely important to address the issues of education and employment of the refugees. Lastly, there have to be efforts made collectively by nations so as to ensure the displaced are rehabilitated back in their homelands.

Similar recommendations have been put forth by the Amnesty International Report, which recommends development of domestic systems to guarantee rights to the refugees and development of a global fund for refugees which could be an effective technique of burden sharing.